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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,635	07/02/2003	Adolf Adrian		3661

7590 10/15/2004  
Dr. Max Fogiel  
44 Maple Court  
Highland Park, NJ 08904

EXAMINER

BURCH, MELODY M

ART UNIT PAPER NUMBER

3683

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/612,635

Applicant(s)

ADRIAN ET AL. 

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of at least one seal outside the dashpot as claimed in line 5 of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities:
- the specification fails to include the proper headings particular to US Patent format;
  - the phrase "is upset at its upper end" in line 10 on pg. 5 is unclear.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification fails to provide proper antecedent basis for the phrase "an elastically tensioned ring" as claimed in lines 2-3 of claim 4. Two rings are mentioned in the specification – (1) piston rod centering ring (2) piston rod sealing ring.

### ***Claim Objections***

5. Claims 1-4 are objected to because of the following informalities: the phrase "the gas channel" in lines 9-10 of claim 1 should be changed to --the at least one channel-- to maintain consistent terminology. Also the phrase "dashpot's outer" in line 8 of claim 1 should be changed to avoid the use of an apostrophe in the body of the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 1. The phrase "telescoping leg" in line 3 of claim 1 is confusing in light of the earlier recitation of a "piston rod" in line 1 of claim 1. From the drawings, the piston rod may be considered a leg that is telescoping into an area within the inner and outer cylinders, therefore, it is unclear to the Examiner whether Applicant intends for the "piston rod" and the "telescoping leg" to represent the same or different elements.

Re: claim 1. The phrase "centers it" in lines 3-4 is indefinite. It is unclear to the Examiner as to which element "it" intends to represent.

Re: claim 1. The phrase "between them" in line 7 is indefinite. It is unclear to the Examiner as to which elements the word "them" intends to represent.

Re: claim 1. The phrase "a flow-controlling diaphragm" in the last line of claim 1 is confusing in light of the specification. The specification reads as if the flow controlling diaphragm is one of the channels (see line 25 of pg. 6 through line one of pg. 7). However, the claim recites the diaphragm as if it is a separate entity. It is unclear as to whether the diaphragm is intended to be the same or different from one of the channels. Clarification is required.

Re: claims 3 and 4. Similar to the "a flow-controlling diaphragm" phrase, the phrase "the diaphragm is a bore" in lines 1-2 of claim 3 and the phrase "the

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diaphragm comprises one or more depressions” in lines 4-5 of claim 4 are indefinite. It is unclear to the Examiner whether the bore/depression is intended to be the same or different from one of the channels recited in claim 1. Examiner also notes that the application includes terminology (the use of the term diaphragm to represent a bore or channel or depression) which is so different from that which is generally accepted in the art to which this invention pertains. Applicant is required to provide a clarification of these matters or correlation with art-accepted terminology so that a proper comparison with the prior art can be made. In the specification, Applicant refers to a diaphragm *effect* being provided by the channel 22 (pg. 6 line 25), but in the claims Applicant refer to the bore or channel or depression as simply a diaphragm. Clarification is required.

Re: claim 4. The phrase “more or less” in line 3 is indefinite. The phrase fails to clearly set forth the metes and bounds of the claim.

Re: claim 4. The phrase “the lipped seal” in line 2 lacks proper antecedent basis in the claim.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-2115903 (GB '903).

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Re: claims 1 and 3. As best understood, GB '903 shows in figure 1 an assembly for sealing and centering a piston rod 3 at its point of penetration in a two-cylinder dashpot or two-cylinder telescoping leg as shown, whereby the assembly seals and centers it as the piston rod travels into and out of the dashpot and is provided with at least one seal 25 (a portion of which being) outside the dashpot, toward the inside with at least one piston-rod sealing ring 13, and with at least one channel 10,28 between them extending into a gas-accommodating space 5 left between the dashpot's outer cylinder 4 and its inner cylinder 1 and whereby the gas channel is provided with a checkvalve 20, characterized in that the gas channel upstream of the gas-accommodating space is provided with a flow-controlling diaphragm (or bore, channel with which the lip contacts to the same extent as Applicant's).

Re: claim 2. GB '903 shows the limitation in that the checkvalve constitutes a seal 20 provided with a lip shown to the left and upward of the lead line of number 20.

Re: claim 4. GB '903 shows the limitation in that the lipped seal is itself a sealing lip integrated into an elastically tensioned ring 12 with a more or less circular wall cross-section and in that the diaphragm comprises one or more depressions in a seat below the elastically tensioned ring.

10. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4428566 to de Baan et al.

Re: claims 1 and 3. As best understood, de Baan et al. show in figure 1 an assembly for sealing and centering a piston rod 5 at its point of penetration in a

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two-cylinder dashpot or two-cylinder telescoping leg as shown, whereby the assembly seals and centers it as the piston rod travels into and out of the dashpot and is provided with at least one seal 24 (a portion of which 24' being) outside the dashpot, toward the inside with at least one piston-rod sealing ring 8, and with at least one channel 7<sup>V</sup> and 22 between them extending into a gas-accommodating space 4 left between the dashpot's outer cylinder 3 and its inner cylinder 2 and whereby the gas channel is provided with a checkvalve 20, characterized in that the gas channel upstream of the gas-accommodating space is provided with a flow-controlling diaphragm (or bore shown in the area of 7<sup>V</sup> to the same extent as Applicant's).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 5224573 to Amemiya et al., 4055352 to Allinquant et al., 4989701 to Yamaoka et al., and German Patent DE-4311099 teach the use of two-cylinder dashpots with similar piston rod sealing and centering arrangements.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax



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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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October 13, 2004

Melody M. Burch  
10/13/04